

TEXAS APPRAISER LICENSING §
AND CERTIFICATION BOARD

vs.

ROBERT WYMAN HAWKINS, JR.
TX-1335830-R

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DOCKETED COMPLAINT NO.
10-173 & 12-038

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AGREED FINAL ORDER

On the 15th day of February, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Robert Wyman Hawkins, Jr. (the "Respondent").

In order to resolve the dispute between the Board and the Respondent the parties collectively agreed to enter into this Agreed Final Order ("Order"). The parties acknowledge that by agreeing to the terms of this Order, Robert Wyman Hawkins, Jr. does not admit that the Findings of Fact and Conclusions of Law are true and the parties acknowledge that Respondent agrees to enter into this Order solely to resolve the dispute between the parties and to avoid the expense of an administrative hearing to adjudicate the claims presented by the Statement of Charges ("Statement").

The Board acknowledges that it filed a Statement which alleged that the Board is entitled to the entry of the following findings of fact and conclusions of law, which Respondent does not admit but rather disputes and expressly denies. Moreover, the Board's Findings of Fact and Conclusions of Law are not the findings or conclusions of an Administrative Judge, but rather are solely the Board's findings and conclusions as evidenced by the allegations contained in the the Statement. Respondent has appropriately notified the Board that he disputes the Board's findings and conclusions, however, to resolve and settle the dispute and to avoid the cost and expense of an administrative hearing the Board and Respondent agree to enter into this Order, which recites the Board's findings and conclusions in accordance with TEX. OCC. CODE § 1103.458.:

FINDINGS OF FACT

1. Respondent Robert Wyman Hawkins, Jr. is a Texas state certified residential real estate appraiser who holds certification number TX-1335830-R, and was certified by the Board during all times material to the above-noted complaints.
2. Respondent appraised real property located at: 1308 Hubert Street, Dallas, Texas 75206 ("the Hubert property") on or about November 25, 2007; 329 E. Colorado Blvd., #204, Dallas, Texas 75203 ("the Colorado property") November 4, 2009; and 2544 W. Kiest Blvd., Dallas, Texas 75233 ("the Kiest property") on or about June 21, 2009.
3. Thereafter the Board initiated and the complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of

Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").

4. Thereafter the Board, in accordance with the mandate of the Administrative Procedure Act (the "APA"), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board. Respondent voluntarily provided documentation and informal testimony to the Board and categorically denied that he in any way violated the Tex. Occ. Code or the USPAP.

5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Hubert property:

- a) USPAP Ethics Rule (Conduct) Respondent violated the Ethics Rule because he communicated assignment results in a misleading manner;
- b) USPAP Ethics Rule (record keeping) Respondent violated the Ethics Rule because he failed to maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;
- c) USPAP Standards 1-2(e)(i) & 2-2(b)(iii); 1-1(b) – Respondent failed to identify and report significant and material information concerning the site description and improvements description adequately;
- d) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent misrepresented the zoning for the Hubert property and failed to disclose, analyze and report the proper zoning classification;
- e) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze significant and material information concerning economic supply and demand and market area trends. Respondent misrepresented the sales prices and marketing and neighborhood area trends occurring in the Hubert property's area;
- f) USPAP Standards 1-3(b) & 2-2(b)(ix); 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to provide his supporting rationale for his highest and best use determination;
- g) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) ; 1-1(a) & 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for his determination;
- h) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to provide support for his determination of the cost new of improvements, failed to employ recognized methods and techniques;

- i) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to collect, verify, analyze and reconcile accrued depreciations and did not employ recognized methods and techniques;
- j) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach;
- k) USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to analyze sales of the subject property within three (3) years prior to the effective date of the appraisal;
- l) USPAP Standards 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used; and,
- m) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent was careless, negligent and produced a misleading appraisal report for the Hubert property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Colorado property:

- a) USPAP Ethics Rule (conduct) -- Respondent violated the Ethics Rule because he communicated assignment results in a misleading manner;
- b) USPAP Ethics Rule (record keeping) -- Respondent violated the Ethics Rule because he failed to maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;
- c) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to properly identify and report the site description;
- d) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent misrepresented the zoning for the Colorado property and failed to analyze and report the proper zoning classification;
- e) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze significant and material information concerning economic supply and demand, market area and neighborhood trends. Respondent misrepresented the sales general market area trends and influences occurring in the Colorado property's area;
- f) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent failed to provide his supporting rationale for his highest and best use determination;

- g) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized methods and techniques in his sales comparison approach;
- h) USPAP Standards 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the sales comparison approach; and
- i) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent was careless, negligent and produced a misleading appraisal report for the Colorado property that contained several substantial errors of omission or commission by failing to employ correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.

7. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Kiest property:

- a) USPAP Ethics Rule (conduct) -- Respondent violated the Ethics Rule because he communicated assignment results in a misleading manner, inflated the value, and performed the assignment in a grossly negligent manner;
- b) USPAP Ethics Rule (record keeping) -- Respondent violated the Ethics Rule because he failed to maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;
- c) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to properly identify and report the site description and improvements description;
- d) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent misrepresented the zoning for the Kiest property and failed to analyze and report the proper zoning classification;
- e) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze significant and material information concerning economic supply and demand and market area trends. Respondent misrepresented the sales prices and general market area trends in the Kiest property's area, which misled the users of his appraisal report;
- f) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) ; 1-1(a) & 1-4(b) – Respondent failed to explain the exclusion of the cost approach and failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation or data for his determination;
- g) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach;

- h) USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to analyze sales of the subject property within three (3) years prior to the effective date of the appraisal;
- i) USPAP Standards 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the sales comparison approach and the applicability of the approaches, methods and techniques used to arrive at the value conclusion; and,
- j) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent produced a misleading appraisal report for the Kiest property that contained several substantial errors of omission or commission by failing to employ correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.

8. Respondent omitted material facts and made material misrepresentations as described in more detail above.

9. The parties agree to enter into this Order in accordance with TEX. OCC. CODE § 1103.458.

10. The Findings of Fact recited in paragraph's 1-9 above are the the findings of Administrative Judge but rather solely the findings of the Board as alleged in the Statement which Respondent disputes.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.

2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by misrepresenting and omitting material facts.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

The Conclusions of Law recited in paragraphs 2 & 3 above are the legal conclusions sought by the Board and shall not be construed as the legal conclusions of an Administrative Judge. Moreover, Respondent specifically denies and does not admit to the conclusions in paragraphs 2 & 3 by agreeing into this Order.

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **EDUCATION.** On or before February 15th, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out

below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**

- a. A classroom course in Residential Market Analysis, a minimum of fifteen (15) class hours, on or before February 15th, 2014.
 - b. A classroom course in Residential Case Studies, a minimum of fifteen (15) class hours, on or before February 15th, 2014.
 - c. A classroom course in Residential Report Writing, a minimum of fifteen (15) class hours, on or before February 15th, 2014.
 - d. A classroom course in Residential Cost Approach, a minimum of fifteen (15) class hours, on or before February 15th, 2014.
2. **MENTORSHIP.** On or before February 15th, 2014. Respondent shall complete fifteen (15) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
 - a. Fifteen (15) hours of mentorship concerning the above noted violations on or before February 15th, 2014.
3. **EXPERIENCE LOG.** On or before February 15th, 2015. Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of twelve (12) months starting after completion of education and mentorship (from February 15th, 2014 to February 15th, 2015). The log shall detail *all* real estate appraisal activities Respondent has conducted during that twelve (12) month period. This log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments Respondent performs during the course of this period of probation within twenty days of receiving any such request.

4. **ADMINISTRATIVE PENALTY.** Pay to the Board an administrative penalty of five thousand dollars (\$5,000.00), by certified funds, within twenty (20) days of the effective date of this order (i.e. on or before March 7th, 2013).
5. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
6. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

Payment of the \$5,000 **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY (20) DAYS** of the date of this Agreed Final Order (i.e. on or before March 7th, 2013).

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE SUSPENSION of the Respondent's certification pursuant to notice to the Respondent from Board staff indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent is in full compliance with the terms of this Order and has provided adequate documentation of that compliance to the Board.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. BY ENTERING INTO THIS ORDER I AM NOT ADMITTING THAT ANY OF THE ALLEGATIONS CONTAINED IN THE STATEMENT OR THE FINDINGS OF FACT AND THE CONCLUSIONS OF LAW ARE TRUE OR CORRECT. I CATERGORICALLY DENY THAT THE ALLEGATIONS CONTAINED IN THE STATEMENT AND THE FINDINGS OF FACT AND CONCLUSIONS OF LAW ARE TRUE OR CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL

ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS.

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 9 day of FEBRUARY, 2013.

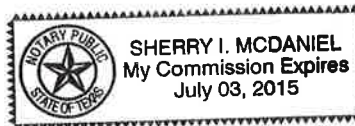

ROBERT WYMAN HAWKINS, JR.


BOONE ALMANZA, ATTORNEY FOR
ROBERT WYMAN HAWKINS, JR.


SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 9 day of February, 2013, by ROBERT WYMAN HAWKINS, JR., to certify which, witness my hand and official seal.


Notary Public Signature


Sherry I McDaniel
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 15th day of February, 2013.


Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this 15 day of Feb, 2013.


Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 15th day of February, 2013.

Walker Beard
~~Luis De La Garza~~, Chairperson Walker Beard
Texas Appraiser Licensing and Certification Board